

## REMARKS

### Interview request

Applicants respectfully request a telephonic interview after the Examiner has reviewed the instant response and amendment. Applicants request the Examiner call Applicants' representative at (858) 720-5133.

### Status of the Claims

#### *Pending claims*

Claims 1 to 20 are pending.

### Support for Claim Amendments

Support for the amended claims can be found throughout the application for the skilled artisan. Accordingly, Applicants submit that no new matter is introduced by the present amendments.

### Species Restriction Requirement

The Office alleged that the pending claims of the application are directed to two patentably distinct inventions under 35 U.S.C. §121, as set forth in detail on pages 2 to 3 of the OA. Applicant is required to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

#### *Comment*

The pending claims are directed to methods comprising use of both an antibody and a nitrogen mustard cancer agent; thus, a thorough search of the art necessarily includes a search of both antibodies and nitrogen mustard cancer agents.

### The Species Election

Applicants elect the species antibody, where claims 1, 7 and 17 are generic (comprising use of both an antibody and a nitrogen mustard cancer agent), and claims 2 to 4, 8 to 10, 14 and 16, include dependent claim limitations on the structure and/or use of the elected antibodies.

When the elected species is held to be allowable, Applicants are entitled to consideration (examination) of additional species; if all species are held to be allowable, a generic claim should be allowed (MPEP §809.02(a); pg 800-52, 53, 8<sup>th</sup> Edition, Rev. 3, Aug. 2005).

CONCLUSION

In view of the foregoing amendment and remarks, including Applicants' remarks of March 14, 2007, in their response to the first office action on the merits, Applicants respectfully aver that the Examiner can properly withdraw the outstanding rejection of the pending claims. In view of the above, claims in this application after entry of the instant amendment are believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing atty docket no. **350292000402**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

As noted above, Applicants have requested a telephone conference with the undersigned representative to expedite prosecution of this application. After the Examiner has reviewed the instant response and amendment, please telephone the undersigned at (858) 720-5133.

Dated: July 30 2007

Respectfully submitted,

By: /Gregory P. Einhorn/

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